[(c) the municipality or the municipality's affiliated governmental entity owns or creates; and]

[(d) (i) either:

[(A) no person uses or occupies; or]

[(B)] (c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; [or]

[(ii) a person uses or occupies with or without an authorized franchise or other agreement with the municipality:]

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement \[\text{dedicated} \]

(f) is described in Section 10-9a-529 and is used by a specified public utility.

[(40)] (41) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[(41)] (42) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[(42)] (43) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.
(2) As a condition precedent to judicial review, each adversely affected [person] party [shall] timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority: (a) shall: (i) act in a quasi-judicial manner; and (ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances, except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section 11-58-401; and (b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may: (a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals; (b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions; (c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court; (d) not require [an] a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of [the adversely affected] an appealing party's duty to exhaust administrative remedies; and (e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall: (a) notify each of its members of any meeting or hearing of the board, body, or panel; (b) provide each of its members with the same information and access to municipal resources as any other member; (c) convene only if a quorum of its members is present; and (d) act only upon the vote of a majority of its convened members.